

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

UNITED STATES OF AMERICA

VS.

CARLOS MARTINEZ-TELLO

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CRIMINAL NO. 1:08-CR-1248

MOTION FOR DISCOVERY OF IDENTITY OF INFORMANT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes, Defendant, **CARLOS MARTINEZ-TELLO**, by and through his undersigned attorney, and respectfully moves this Honorable Court pursuant to Rule 16, Federal Rules of Criminal Procedure to order the Government to disclose to defense counsel the identity of all informants involved in the case, and for grounds would show the Court the following:

I.

The Government appears to have relied upon one or more informants in this case to provide probable cause information for the warrant of arrest; to set up the defendant with law enforcement personnel resulting in the defendant's arrest; to participate in the transaction involved in this case; and, to entice and trap defendant.

II.

Under *Rovaiaro v. United States*, 353 U.S. 53 (1957) the identity of the informant must be revealed where the informant participated in the offense, was present at the time of the offense or arrest, or is a material witness as to the culpable mental state of the defendant.

III.

The disclosure of the informant's identity is necessary to show that the officers who conducted the arrest did not have probable cause based upon a reliable and credible informant.

IV.

The disclosure of the informant's identity is necessary because the informant is a material witness to the Defendant's guilt or innocence, and upon the possible defense of entrapment.

V.

Failure to divulge the identity and present address of the informant violates the Defendant's constitutional rights to compulsory process and his right to offer evidence as to his innocence as guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution.

WHEREFORE, PREMISES CONSIDERED, the defendant prays the Court grant this motion and order the government to disclose to defense counsel the true name and location of all informants in this case and to produce such informants at the trial of this case prior to the commencement of voir dire.

Respectfully submitted,

/s/ Anthony P. Troiani
Anthony P. Troiani
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CERTIFICATE OF SERVICE

I, Anthony P. Troiani, hereby certify that on the 18th day of September, 2009, a true and correct copy of the foregoing motion was served on the following:

VIA Electronic Filing

Mr. Oscar Ponce
U.S. Attorney's Office
600 E. Harrison, Suite 201
Brownsville, Texas 78520

/s/ Anthony P. Troiani
Anthony P. Troiani